

R E M A R K S

Prior to entry of this Amendment:

- Claims 3, 4, 56-69, 72-86, 89, 95 and 96 were pending in the present application
- Claims 3, 4, 56-69, 72-86, 89 stand rejected
- Claim 95 and 96 are allowed

Upon entry of this Amendment, which is respectfully requested for the reasons set forth below:

- Claims 95-111 will be pending
- Claims 97-111 will be added
- Claims 3, 4, 56-69, 72-86, and 89 will be cancelled
- Claims 95, 96, and 111 will be the only independent claims

Telephone Interview

Applicants would like to thank the Examiner for the helpful telephone conversation held on February 10, 2005, with Applicants' representative. The Examiner asserted that the "specialized codes" of Lynch teach a score determined based on a flexibility range and the "business profile" teaches a flexibility range. Applicants' representative did not agree. While no formal agreement was reached, Applicants are grateful for the opportunity to discuss the present application with the Examiner.

Claims 95 and 96 Are Allowable

Applicants are grateful for the Examiner's acknowledgement that independent Claims 95 and 96 are allowable over the prior art of record.

New Claims 97-110 are dependent from Claim 95 are thus believed to be allowable for at least the same reasons as Claim 95.

Newly-added Claims 97-111 Contains Allowable Subject Matter

New independent Claim 111 is believed to be patentable over Lynch. The Examiner has indicated that method Claim 95 is allowable over the art of record. Independent Claim 111 is directed to an apparatus comprising a computer readable medium storing instructions configured to direct a processor to perform the method of Claim 95. Accordingly, Applicants respectfully submit that new independent Claim 111 contains allowable subject matter.

New dependent Claims 97-110 each depend from allowable Claim 95. Each of new Claims 97-110 is generally related to subject matter recited in now-cancelled dependent Claims 56-69, respectively. Applicants respectfully submit that new claims 97-110 contain allowable subject matter.

Section 102(e) Rejection

Claims 3, 4, 56-69, 72-86, and 89 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,839,679 issued to Lynch, et al. ("Lynch"). Applicants respectfully traverse the Examiner's Section 102(e) rejection.

Applicants respectfully that Lynch does not teach or suggest at least the feature of wherein said first price is determined by scoring said first flexibility range to obtain a score and using said score to determine a percentage discount (or monetary discount) off of an established price, as generally recited in Claims 3, 4, 72, and 89.

However, all of Claims 3, 4, 56-69, 72-86, and 89 (and claims dependent therefrom have been cancelled without prejudice by this amendment. Applicants reserve the right to pursue the subject matter of the cancelled claims in a continuing application. Accordingly, the Section 102(e) rejection is moot.

As all pending claims are in condition for allowance, Applicants respectfully request the Examiner's grant of a patent for allowable Claims **95-111**.

Conclusion

It is submitted that all of the claims are in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

Please charge any fees that may be required for this Amendment to Deposit Account No. 50-0271. Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this Amendment timely, and please charge any fee for such an extension to Deposit Account No. 50-0271.

If the Examiner has any questions regarding this amendment or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at mtdowns@walkerdigital.com.

Respectfully submitted,



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